BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Aileen Standifer	)
	a/k/a Aileen S. Craft	) Claiborne County
	Dist. 4, Map 119, Control Map 119, Parcel 19	)
	Farm Property	)
	Tax Year 2007	)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

	LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
MKT.	$269,000	$55,600	$324,600	$ -
USE	$ 71,500	$55,600	$127,100	$31,775

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 19, 2007 in Tazewell, Tennessee. The taxpayer, Aileen S. Craft, represented herself and was assisted by her son, Philip Mabe. The assessor of property was represented by staff member Judy Myers and Brian Walker, TMA, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 150 acre tract improved with a 1,080 square foot residence constructed in 1958. Subject property is located at 375 Standifer Lane adjacent to the Woodlake Golf Club in Tazewell, Tennessee.

The taxpayer contended that subject property should be valued at $171,200 as it was prior to the 2007 countywide reappraisal program. In support of this position, the taxpayer argued that subject property experiences a dimunition in value due to the physical condition of the dwelling, the topography of the land, and the amount of rock in the pastureland. In addition, the taxpayer asserted that she does not own 1.16 of the 150 acres assessed to her given the November 29, 2001 order of Chancellor Richard E. Ladd in a boundary dispute. Moreover, the taxpayer challenged various calls on the property record card. Finally, the taxpayer maintained that the current appraisal of subject land does not achieve equalization because of inconsistencies vis-à-vis her neighbors.

The assessor contended that subject property should be valued at $546,400. In support of this position, the testimony and written analysis of Brian Walker, TMA was introduced into evidence. Essentially, Mr. Walker analyzed five vacant land sales and three improved sales. Mr. Walker's assertion that the appraisal of subject property should be

drastically increased was based primarily on a contended land value of $3,198 per acre or $479,700.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $324,600 based upon the presumption of correctness attaching to the decision of the Claiborne County Board of Equalization.

Since the taxpayer is appealing from the determination of the Claiborne County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that the taxpayer did not introduce a single sale into evidence. The administrative judge finds that comparable sales constitute the best evidence of subject property's market value.

The administrative judge finds that the taxpayer introduced insufficient evidence to establish whether the cracks depicted in her photographs are truly structural in nature or merely cosmetic. For example, no repair estimates or evaluations of the problem were introduced into evidence.

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept

> as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds that the Assessment Appeals Commission has historically rejected taxpayers' attempts to establish a lower value by simply attacking portions of the property record card. For example, in *Devere M. Foxworth* (Polk Co., Tax Year 2001) the Commission reasoned in pertinent part as follows:

> The problem with evaluating a property tax assessment on the basis of the pieces of the assessor's record is at least two-fold. First, the pieces may not compare one to another i.e., the value attributed by the CAAS system to a typical component may not represent the true contribution of the component as represented in the subject property. Second, the pieces are part of a whole that is merely a computer generated approximation of the legal standard of fair market value. The result for a particular property in the assessor's system may or may not yield fair market value. The appeal process therefore looks to more traditional methods of individual property valuation in order to be sure the legal standard has been met.

Final Decision and Order at 1.

The administrative judge finds Chancellor Ladd clearly ruled that Ms. Craft does not own the land that was the subject of the boundary dispute. Absent additional evidence, however, the administrative judge cannot determine if that acreage was included in the 150 acres assessed to the taxpayer. The administrative judge finds that neither the taxpayer's surveyor nor the assessor's mapper were present to testify. Absent such testimony, it cannot be determined whether the taxpayer has been assessed for acreage she does not own.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the

overall level of appraisal in the jurisdiction for the tax year in controversy.[1] The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

> The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

Based upon the foregoing, the administrative judge would normally find it unnecessary to even address the assessor's proof due to the taxpayer's failure to establish a prima facie case. In this appeal, however, Mr. Walker argued for a significantly higher value.

The administrative judge finds that just as the taxpayer ha the burden of proof to support a reduction in value, the assessor has the same burden when seeking a higher value. Respectfully, the administrative judge finds that although Mr. Walker's analysis was most thorough and supports the appraisal of subject property, additional evidence is necessary to support a higher value. The administrative judge finds that four of the five vacant land sales used in Mr. Walker's analysis are much smaller than the subject (24.7, 32.53, 55 & 63.5 acres). It appears that the comparables have not been adjusted for size nor has a highest and best use analysis been made.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

	LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
MKT.	$269,000	$55,600	$324,600	$ -
USE	$ 71,500	$55,600	$127,100	$31,775

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12

[1] See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of September, 2007.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Philip Mabe
Ms. Aileen S. Craft
Kay Sandifer, Assessor of Property